

FRIENDSHIP, COMMERCE, AND NAVIGATION: WHALE SHIPS

Convention signed at Lima July 4, 1857, interpreting article XII of treaty of July 26, 1851

Ratified by Peru October 5, 1857

Senate advice and consent to ratification April 30, 1858

Ratified by the President of the United States May 7, 1858

Ratifications exchanged at Washington October 13, 1858

Entered into force October 13, 1858

Proclaimed by the President of the United States October 14, 1858

Treaty of July 26, 1851, terminated December 9, 1863¹

11 Stat. 725; Treaty Series 278²

Certain doubts having arisen with regard to the interpretation to be given to Article Twelfth of the Treaty of the 26th of July 1851,³ as to the goods, other than oil and the produce of their fishery, that the whale ships of the United States may land and sell, or barter, duty free; for the purpose of obtaining provisions and refitting; a concession which, in Articles eighty one and one hundred and ten of the General, Commercial Regulations,² is not so extensive; and it being convenient for the advantage of the citizens of the United States, employed in the whale fishery and of the citizens of Peru who furnish provisions, to fix, clearly and definitively, the proper meaning of the concessions stipulated in the abovementioned Article twelfth of the Treaty of the 26th of July 1851; so that while those reciprocal benefits are secured, all and every controversy in the matter may be avoided:

The Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Republic of Peru, John Randolph Clay, in virtue of his Full Powers;

And His Excellency, Doctor, Don Manuel Ortiz de Zevallos, Minister of Foreign Affairs of the Republic of Peru, fully authorised to act in the Premises by the Excellent Council of Ministers charged with the Government of the Republic;

¹ Pursuant to notice of termination given by Peru Dec. 9, 1862.

² For a detailed study of this convention, see 7 Miller 649.

³ TS 276, *ante*, p. 1006.

After having held repeated conferences and come to a mutual understanding, upon the true spirit and extent of the exemption from duties conceded to the said whale Ships, in the sale and barter of their stores and Merchandise, by Article twelfth of the Treaty of 1851, which provides.

“ARTICLE XII

“The whale ships of the United States shall have access to the port of Tumbes, as well as to the ports of entry of Peru and may sail from one port to another, for the purposes of refreshment and refitting, and they shall be permitted to sell or barter their supplies or goods, including oil, to the amount of two Hundred dollars, *ad valorem*, for each vessel, without paying any tonnage or harbor dues, or any duties or imposts upon the articles so sold or bartered. They shall be also permitted, with like exemption from tonnage and harbor dues, further to sell or barter their supplies or goods, including oil, to the additional amount of one thousand dollars, *ad valorem*, for each vessel, upon paying for the said additional articles the same duties as are payable upon like supplies, or goods and oil, when imported in the vessels and by the citizens or subjects of the most favored nations.”

Have agreed and declared.

ARTICLE I

That the permission to the whale ships of the United States, to barter or sell their supplies and goods to the value of two hundred dollars, *ad valorem*, without being obliged to pay port or tonnage dues, or other imposts, should not be understood to comprehend every kind of Merchandise without limitation; but those only that whale ships are usually provided with for their long voyages.

ARTICLE II

That in the said exemption from duties of every kind are included the following articles, in addition to the produce of their fishery, viz:

White, Unbleached Domestics	Axes, Hatchets
White, Bleached Domestics	Biscuits of every kind
Wide Cotton Cloths	Flour
Blue Drills	Lard
Twilled Cottons	Butter
Shirting Stripes	Rum
Ticking	Beef
Cotton Shirtings	Pork
Prints	Spermaceti and Composition Candles
Sailor's Clothing of all Kinds	Canvass
Soap	Rope
Slush	Tobacco
Boots, Shoes and Brogans	

ARTICLE III

It is also agreed upon and understood between the Contracting Parties, that the whale Ships of the United States may land and sell or barter, free of all duties or imposts whatsoever, the supplies and merchandise specified, in the preceding article, to the amount of five hundred dollars, *ad valorem*, in conformity with Article 81 of the General, Commercial Regulations; but for every additional quantity, from five hundred dollars to one thousand dollars, *ad valorem*, the exemption shall only extend to port and tonnage dues.

ARTICLE IV

The stipulations in this Convention shall have the same force and effect as if inserted, word for word, in the Treaty concluded in Lima on the 26th of July 1851, and of which they shall be deemed and considered as explanatory. For which purpose, the present Convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the Executive Power of the Republic of Peru, with the authorization, of the National Peruvian Legislature: and the ratifications shall be exchanged in Washington, in as short a time as possible.

In faith whereof the above-named Plenipotentiaries have signed in quadruplicate this Convention, explanatory of the Treaty of the Twenty sixth of July one thousand eight hundred and fifty one, and have hereunto affixed their seals.

Done at Lima the fourth day of July, in the year of Our Lord, one thousand, eight hundred and fifty seven.

J. RANDOLPH CLAY

[SEAL]

MANUEL ORTIZ DE ZEVALLOS

[SEAL]